

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALEXIS SEXTON, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CHAD WILLIAMS,

Respondent-Appellant.

UNPUBLISHED

April 24, 2007

No. 274548

Dickinson Circuit Court

Family Division

LC No. 06-000500-NA

Before: Cavanagh, P.J., and Jansen and Borrello, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(h), (k)(ii), and (n)(i). We affirm. This appeal is being decided without oral argument. MCR 7.214(E).

To terminate a respondent's parental rights, the petitioner must prove by clear and convincing evidence at least one statutory ground for termination. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). Once this has occurred, the trial court must terminate the respondent's parental rights unless it finds that termination is clearly not in the best interests of the child. *Id.* at 354. We review the trial court's findings for clear error. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

Respondent was convicted of four counts of first-degree criminal sexual conduct with a person under 13 years of age, MCL 750.520b(1)(a), and three counts of second-degree criminal sexual conduct with a person under 13 years of age, MCL 750.520c(1)(a). The victim was the minor child's half-sibling. It is well established that a parent's treatment of one child is probative of how he or she may treat other children. *In re AH*, 245 Mich App 77, 84; 627 NW2d 33 (2001); *In re Laflure*, 48 Mich App 377, 392; 210 NW2d 482 (1973).

Regarding subsection (h), respondent concedes that he will be in prison for a period exceeding two years. However, respondent argues that there was no evidence that he had not provided proper care for the minor child. We acknowledge respondent's testimony that, while incarcerated, he provided the child's mother with some financial assistance. However, providing for a child's "proper care and custody" within the meaning of subsection (3)(h) requires more than financial support. Based on respondent's multiple convictions of criminal sexual conduct

against the minor child's half-sibling, and his resulting incarceration, there was no likelihood that respondent would be able to provide proper care and custody or a normal home life for the minor child within a reasonable time. MCL 712A.19b(3)(h).

Respondent next appears to argue that subsection (k)(ii) requires testimony that he actually committed the sexual abuse alleged in the petition.¹ The trial court relied on respondent's judgment of conviction, which was admitted into evidence. The judgment of conviction was conclusive evidence that respondent sexually abused the child's half-sibling, and that the abuse involved penetration. No additional evidence or testimony was required to establish subsection (k)(ii).

With regard to subsection (n)(i), respondent concedes that he was convicted of criminal sexual conduct, but argues that there was no evidence to show that continuing the parent-child relationship would be harmful. However, as noted above, it is well settled that a parent's treatment of one child is probative of how he may treat other children. *In re Laflure*, *supra* at 392. Because respondent sexually abused the minor child's half-sibling, the trial court properly found that a continuation of the minor child's relationship with respondent would be harmful.

Finally, respondent contends that because the minor child would no longer be entitled to potential benefits from him, such as Social Security benefits or child support payments, termination of parental rights was not in the minor child's best interests. Although it is important that the child is financially cared for, it is even more important that the child live in a safe environment, free from sexual abuse. The trial court did not err in concluding that termination was not clearly contrary to the child's best interests. MCL 712A.19b(5).

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Stephen L. Borrello

¹ We note that subsections (k)(i), (ii), and (iii) apply whenever a parent has "abused the child *or a sibling of the child* . . ." MCL 712A.19b(3)(k) (emphasis added). Although respondent was convicted of criminal sexual conduct with respect to the minor child's half-sibling, the word "sibling" includes a half-sibling for purposes of MCL 712A.19b.